



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov
DNW Jun-06

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

COPY MAILED

NOV 02 2006

OFFICE OF PETITIONS

In re Patent No. 6,954,601	:	
Numagami et al.	:	DECISION ON REQUEST
Issue Date: 11 October, 2005	:	FOR RECONSIDERATION OF
Application No. 10/671,521	:	PATENT TERM ADJUSTMENT
Filed: 29 September, 2003	:	and
For: PROCESS CARTRIDGE AND	:	NOTICE OF INTENT TO ISSUE
ELECTROPHOTOGRAPHIC IMAGE	:	CERTIFICATE OF CORRECTION
FORMING APPARATUS	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT (UNDER 37 C.F.R. § 1.705(d))" filed 9 December, 2005. Patentee requests that the Patent Term Adjustment for the above-identified patent be corrected from zero (0) days to thirty (30) days.

The request for reconsideration of the patent term adjustment indicated in the patent is GRANTED.

The patent term adjustment indicated in the patent is to be corrected by the issuance of a certificate of correction showing a revised Patent Term Adjustment of thirty (30) days.

On 11 October, 2005, application No. 10/671,521 matured into U.S. Patent No. 6,954,601. The instant request for reconsideration filed 9 December, 2005, was timely filed within 2 months of the date the patent issued. See § 1.705(d). The patent issued with a revised Patent Term Adjustment of 0 days. The PTA of 120 days indicated in the notice of allowance was reduced by 106 days pursuant to 37 CFR § 1.704(c)(10) for the submission of a request for foreign priority and priority papers after the mailing of the notice of allowance and by an additional 14 days pursuant to 37 CFR § 1.704(c)(10) for the filing of an amendment after mailing of the Notice of Allowance.

Herein, patentees request entry of a period of adjustment of 30 days on the basis that the Office erred in calculating the delay resulting from the submission of a Request for Priority Acknowledgement and Foreign Priority Papers on 14 April, 2005. Petitioners assert that the Office acknowledged receipt of the foreign priority claim in the supplemental Notice of Allowability 1 July, 2005, and should use that date to calculate the period of delay, rather than the mailing of the Acknowledgement of Foreign Priority on 20 August, 2005. Further, petitioners state there were two (2) overlapping days of delay between the date the Amendment after Notice of Allowance was Filed and the date the supplemental Notice of Allowability was mailed.

Petitioners do not dispute the delay of 14 days for the filing of an amendment after the mailing of the Notice of Allowance, but states that the delay for the filing of the Request for Foreign Priority and Priority Papers should be calculated from the date the papers were filed, 14 April, 2005, to 1 July, 2005, the date the supplemental Notice of Allowance acknowledging the claim to priority, was mailed, rather than from 14 April, 2005, to 20 August, 2005, the date a supplemental Notice acknowledging the claim of priority was mailed. Petitioners additionally avers that there were two (2) overlapping days during the period of delay from 14 April, 2005, the date that foreign priority papers were filed, through 1 July, 2005, the date the supplemental Notice of Allowability was mailed, and the period of delay from 29 July, 2005, the date an Amendment after Notice of Allowance was Filed, through 12 July, 2005, the date that a response to the Amendment after Notice of Allowance was mailed.

37 CFR § 1.704(c)(10) provides that:

Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:

(i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;

or

(ii) Four months;

Petitioners' assertion is well taken that the Office mailed an Office action, in the form of a supplemental Notice of Allowability, on 1 July, 2005, acknowledging the claim to foreign priority. As such, the period of delay in submitting the Request for Foreign Priority should have been calculated based on the mailing supplemental Notice of Allowability on 1 July, 2005, rather than the Office letter mailed on 20 August, 2005. Thus, the period of reduction for applicant delay should have been 78 days rather than 106 days.

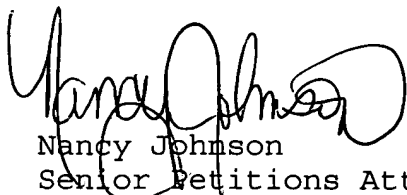
Further, petitioners' assertion is correct in that two (2) overlapping days occurring during the 78 day period of delay from the date the foreign priority paper were filed on 14 April, 2005, and the supplemental Notice of Allowability was mailed on 1 July, 2005, and the 14 day period between the filing of the Amendment after Notice of Allowance on 29 June, 2005, and the mailing of the response to the Amendment after Notice of Allowance Mailed on 12 July, 2005. As such, the number of non-overlapping days is 90 (78+14-2).

In view thereof, the patent term adjustment indicated on the patent should be thirty (30) days.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being referred to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by THIRTY (30) days.

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 6,954,601 B2
DATED : October 11, 2005
INVENTOR(S) : Atushi Numagami et al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (0) days

Delete the phrase "by 0" and insert – by 30 days--